THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 11018 of 2004

O r d e r:

The petitioner joined the service of the respondents-APSRTC as Conductor in 1970. At the time of joining the service, the petitioner produced duplicate School Leaving Certificate, and based on the date of birth, as mentioned therein, his date of birth was entered as 08.05.1947 in the Service Register. On the ground that the petitioner produced false date of birth certificate, he was issued charge sheet dated 18.07.1978. It is the case of the petitioner that the Security Inspector in the Vigilance Department, who enquired into the matter, recorded the statement of Deputy Inspector of Schools, Huzurnagar, who stated that the date of birth of the petitioner was wrongly entered as 08.05.1947 instead of 08.05.1950. It is the case of the petitioner that his actual date of birth is 08.05.1950 and not 08.05.1947 as mentioned in the School Leaving Certificate. It is the case of the petitioner that in pursuance of the Circular No. PD 127/1977-78, dated 30.09.1977, he made representation to the respondents on 31.10.1997 followed by two other representations dated 13.03.2003 and 19.02.2004, seeking correction of his date of birth, but no action had been taken thereon. Therefore, he filed writ petition to declare the action of the respondents in not altering his date of birth as 08.05.1950 as per the school records, as illegal and arbitrary.

While admitting the writ petition, this Court vide order dated 06.07.2004, granted interim directions in W.P.M.P. No. 14009 of 2004 directing the respondents to consider the representations of the petitioner and pass appropriate orders within a period of four weeks from the date of receipt of a copy of the order. In pursuance of the said directions, the respondents having considered the representations of the petitioner, vide order dated 22.07.2004, rejected the request of the petitioner for alteration of his date of birth.

Thereafter, the petitioner filed application in W.P.M.P.
No. 22685 of 2004, to permit him to amend the prayer in the writ petition to declare

the order dated 22.07.2004 passed by the respondents refusing to consider his request for alteration of his date of birth as 08.05.1950, as illegal and arbitrary, which by order date08.10.2004 was allowed by this Court.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-APSRTC.

It is his contention that his date of birth was wrongly entered by the school authorities as 08.05.1947 in stead of 08.05.1950. This contention of the petitioner cannot be accepted. The petitioner in his application for employment for the post of Conductor mentioned his date of birth as 08.05.1947. At the time of joining the service of the respondents in 1970 produced Transfer Certificate issued by the Head Master, Addagudur, Ramannapet, Nalgonda District. In the Transfer Certificate produced by the petitioner, his date of birth is mentioned as 08.05.1947. In the Attestation Form submitted by the petitioner pursuant to his appointment, he mentioned his date of birth as 08.05.1947. The date of birth of the petitioner, as mentioned by him in his application form and attestation form and as evidenced by the Transfer Certificate produced, was entered in the Service Register as 08.05.1947. It may be noticed that under Regulation 19(3) of the APSRTC Employees' (Service) Regulations, 1964, the date of birth as recorded in a school or college certificate shall be adopted without any notification, and the date of birth so recorded shall be binding and no alteration of such date shall be permitted subsequently. Therefore, it is not open for the petitioner to contend that his date of birth was wrongly entered by the school authorities, and as such, it needs alteration. If really the date of birth of the petitioner was wrongly entered in the school records, nothing prevented him from taking steps to get his date of birth altered in the school records. The petitioner did not take any steps to get his date of birth in the school records, based on which, his date of birth was entered in the Service Register, corrected. The date of birth of the petitioner having been mentioned in the Service Register based on the one mentioned in the Transfer Certificate produced by him, cannot be allowed to contend that inasmuch as his date of birth was wrongly entered in the school records, the respondents should alter the same.

Though the petitioner contends that he made representation to the respondents on 29.10.1977 in pursuance of the Circular
No. PD 127/1977-78, dated 30.09.1977, seeking correction of his date of birth as 08.05.1950, the fact remains, the petitioner was placed under suspension vide

orders dated 04.07.1978, for producing wrong date of birth certificate, he was later charge sheeted on 17.07.1978, and the Enquiry Officer, who conducted enquiry into the charges, held that the charges leveled against the petitioner are proved, and based on the enquiry report, the respondents passed final order on 17.02.1983 imposing punishment by treating the suspension period as “not on duty”. To this effect, there are even entries in his Service Register. Therefore, he cannot be allowed to contend that his representation dated 29.10.1977, for correction of his date of birth, was not considered.

Be that as it may, in the Personal Data Sheet – January, 1984, the petitioner mentioned his date of birth as 08.05.1947. Even in the Declaration and Nomination Form relating to the Employees’ Provident Fund Scheme, 1952 and Nomination-cum-Authorization Form relating to APSRTC Retirement Benefit Scheme, Hyderabad, the petitioner mentioned his date of birth as 08.05.1947. Apart from the above, it is the case of the respondents that the minimum age required for appointment to the post of Conductor is 21 years, and if the date of birth of the petitioner is taken as 08.05.1950, which according to the petitioner is his correct date of birth, he would be under-aged for being appointed as Conductor. If that be so, I fail to understand how the petitioner could seek correction of his date of birth as 08.05.1950, and if his request for alteration of his date of birth as 08.05.1950 is to be accepted, then the petitioner would be disqualified for being appointed as Conductor itself. Therefore, reliance placed by the learned counsel for the petitioner in support of his plea for alteration of his date of birth of the petitioner on the judgment of the Full Bench of this Court in **M. Vijaya Bhaskara Reddy v. High Court of Andhra Pradesh**, is of no avail to him. In the facts situation, as stated above, no exception can be taken to the order dated 22.07.2004, passed by respondents rejecting the representation dated 19.02.2004, for alteration of his date of birth, and more so having regard to the fact that the Regulation 19(3) of the APSRTC Employees’ (Service) Regulations, 1964 gives binding effect to the date of birth, which is entered on the basis of school record, in the instant case, based on the Transfer Certificate produced by the petitioner.

In the above view of the matter, no relief can be granted to the petitioner in the writ petition, and it is accordingly dismissed.

Before, parting with the judgment, it may be noticed that on 29.11.2004, the

respondent issued a notification, showing the date of birth of the petitioner as 08.05.1947, and informing that the petitioner on attaining the age of superannuation, would be retired w.e.f. 31.05.2005. During the pendency of the writ petition, when the petitioner was sought to be retired in pursuance of the said notification, he filed an application in W.P.M.P. No. 14398 of 2005, seeking to continue him in service by suspending the notification. This Court by order dated 24.05.2005, while directing the petition to be listed on 06.06.2005, permitted the petitioner to continue subject to his giving an undertaking that he would not be entitled to salary, and payment of salary would be subject to result of the writ petition. Later, the petitioner himself submitted that he is not comfortable in the present position and wanted himself to be retired on attaining the age of superannuation, and based on such representation, the petitioner was retired on attaining superannuation, leaving the dispute as to his date of birth to be considered in the writ petition.

Now that the writ petition has been dismissed, the petitioner is not even entitled to salary for the period he worked beyond the date of his superannuation till he himself sought to be retired in pursuance of the notification, in view of the undertaking given by him that he would not be entitled to any salary, and that payment of salary to him would be subject to the result of the writ petition, as stated in the body of the judgment above. No costs.

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N.V. RAMANA, J.

Date:13 April, 2006.

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